

Appl. No. : 09/855,340  
Applicant : Hosted et al.  
Filed : May 15, 2001  
TC/AU : 1636  
Examiner : Walter Schlapkohl  
Docket No. : IN01164K US  
Confirm No.: 9296

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Mail Stop: PATENT EXT.

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA)  
UNDER 37 C.F.R. § 1.705**

Sir:

Applicants herein request that the Patent Office reconsider the 135 day patent term adjustment specified in the "Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b)" mailed January 19, 2007 in the above-referenced application. The correct patent term adjustment should be **438 days**. Applicants also request issuance of a corrected Determination reflecting the 438 day patent term adjustment and that the patent which issues from the instant application reflect the accurate 438 day adjustment period.

The present request, being filed along with the issue fee transmittal, is timely. 37 C.F.R. § 1.705(b).

The office is authorized to charge deposit account no. 19-0365 the required fee under 37 C.F.R. § 1.18(e). 37 C.F.R. § 1.705(b)(1).

As stated above, the correct patent term adjustment is 438 days. 37 C.F.R. § 1.705(b)(2)(i).

The relevant facts substantiating the present request for reconsideration are as follows. 37 C.F.R. § 1.705(b)(2)(ii). First, the Patent Office incorrectly debited the present application 130 days for allegedly responding to the October 1, 2003 Restriction Requirement on May 10, 2004 (130 days overdue). This determination is erroneous because the Restriction Requirement was responded to on November 3, 2003 (0 days overdue; Nov. 1, 2003 fell on a Saturday and Nov. 3, 2003 was the next business day, Monday). The USPTO PAIR system includes images of the response filed on November 3, 2003. Moreover, a copy of the postcard filed along with the response, bearing an OIPE stamp indicating a November 3, 2003 date of receipt, is enclosed. The posting of the erroneous May 10, 2004 date appears to be due to a re-submission of the response on that date. The re-submission was done in response to a request by Examiner Gerald G. Leffers, Jr. Examiner Leffers had not received a copy of the response and, so, requested an additional copy from the undersigned. Examiner Leffers acknowledged the initial November 3, 2003 filing of the response in the August 23, 2004 first non-final office action (see page 2 under **"Election/Restriction"**).

Second, since the response to the Restriction Requirement was mailed on November 3, 2003, and the following first non-final office action was mailed more

than 4 months later, on August 23, 2004, the present application's patent term is entitled to a 173 day credit.

Patent term adjustment summary:

Credit days

|          |  |
|----------|--|
| 443 days | Oct. 1, 2003 mailing of first office action            |
| 173 days | Aug. 23, 2004 mailing of first non-final office action |

total: 616 days

Debit days

|         |   |
|---------|---|
| 62 days | Jan. 24, 2005 response to non-final office action           |
| 30 days | Feb. 23, 2005 response to notice of non-compliant amendment |
| 54 days | Sept. 29, 2005 response to non-final office action          |
| 20 days | March 7, 2006 amendment after final office action           |
| 12 days | July 18, 2006 response to non-final office action           |

total: 178 days. 37 C.F.R. § 1.705(b)(4)(A).

So, 616 days-178 days=438 days

The present application is not subject to a terminal disclaimer. 37 C.F.R. § 1.705(b)(2)(iii).

Early and favorable action is earnestly solicited.

Respectfully submitted,

Date: Mar. 7, 2007



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RECEIVED IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Hosted et al.  
Serial No.: 09/855,340 Atty.: TT:sh  
Filed: May 15, 2001 Case No.: IN01164K  
For: Isolation of Micromonospora Carbonacea  
Enclosed: Var Africana PMLPl Integrase and Use...

- ☐ Certificate of Mailing PTO/SB/92 (1 page)
- ☒ Response Transmittal Form (PTO/SB/21)
- ☐ Fee Transmittal (PTO/SB/17) In Duplicate
- ☐ Response To Notice to File Missing Parts (\_\_\_\_ pages)
- ☐ Copy of Notice to File Missing Parts
- ☐ Declaration/Power of Attorney (Exec./Unexec./Copy) (\_\_\_\_ pages)
- ☐ Sequence Listing (\_\_\_\_ pages)
- ☐ Sequence Listing Statement (\_\_\_\_ pages)
- ☐ Sequence Listing Diskette
- ☒ Amendment or Response ( 5 pages)
- ☐ Petition for Extension of Time (PTO/SB/22) (\_\_\_\_ Months)  
(\_\_\_\_ Duplicate)
- ☐ Information Disclosure Statement (\_\_\_\_ pages)
- ☐ Form PTO 1449 (\_\_\_\_ pages) (\_\_\_\_ documents)
- ☐ Issue Fee Transmittal (Part B) In Duplicate
- ☐ Assignment Recordation (PTO-1595) (1 page) In Duplicate
- ☐ Recordation Form Cover Sheet Continuation (\_\_\_\_ pages)
- ☐ Assignment Document (\_\_\_\_ pages)
- ☐ Charge to Deposit Account No. 19-0365  
in the amount of \$\_\_\_\_\_

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Date Mailed: October 30, 2003